

Public Disclosure Commission Strategic Plan

May 2004

Mission Statement

The Public Disclosure Commission was created and empowered by Initiative of the People to provide timely and meaningful public access to information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates, and to ensure compliance with disclosure provisions, contribution limits, campaign practices and other campaign finance laws.

Vision Statement

We build public confidence in the political process and government.

Statutory Authority

The Public Disclosure Commission is created pursuant to RCW 42.17.350. The Commission's powers and duties are set forth in RCW 42.17.360, 42.17.365, 42.17.367, 42.17.370, 42.17.395 and other provisions of chapter 42.17 RCW.

Goals and Objectives

1. Identify and implement strategies to make enforcement efforts more effective; evaluate results.

Objective: Maximize uniformity of enforcement decisions.

Strategy: Institute policies and practices to streamline enforcement activity.
[Statewide Result No. 11. Activity: Enforcement of Public Disclosure Laws.]

Action Items:

- 1-1 Publicize existing penalty schedules.
Who: Director of Public Outreach
Timeline: Ongoing
- 1-2 Identify additional types of violations that lend themselves to application of penalty schedules; develop and implement new schedules.
Who: Assistant Director, Director of Compliance
Timeline: January 2005
- 1-3 Further utilize settlement alternatives, including stipulations, and explore feasibility of automatic standard penalties.
Who: Executive Director, Assistant Director, Senior Counsel, Sr. Asst. Attorney General
Timeline: Ongoing
- 1-4 Develop an historical reference guide for enforcement decisions rendered and penalties imposed by full commission.
Who: Director of Compliance
Timeline: December 2004
- 1-5 Identify and implement two technological solutions that expedite enforcement efforts.
Who: Assistant Director, Chief Technology Officer
Timeline: December 2004, December 2005
- 1-6 Send notices to officers of PACs that remain registered, but who have not filed for two-year period.
Who: Director of Compliance
Timeline: Annually in February

Objective: Improve reliability of disclosed information.

Strategy: Verify accuracy of lobbying reports. [Statewide Result No. 11. Activity: Enforcement of Public Disclosure Laws.]

Action Items:

- 1-6 Conduct random audits of 25 lobbyist employers and their lobbyists to verify accuracy of reports filed pursuant to RCW 42.17.150 through .180, including the subject matter of proposed legislation or rule-making which was supported or opposed during a reporting period.
Who: Director of Compliance
Timeline: Ongoing
- 1-7 Conduct random audits of 5 public agencies to verify accuracy of lobbying reports filed pursuant to RCW 42.17.190, including the general description of the nature of lobbying undertaken during a reporting period.
Who: Director of Compliance
Timeline: Ongoing

2. Enhance public access to disclosure reports and data through evolving technology.

Objective: Increase functionality and usefulness of IT systems.

All strategies and action items below advance Statewide Result No. 11.
Activity: Provide Public Access to Campaign, Lobbying and Financial Information.

Strategy: Release Online Reporting of Campaign Activity (ORCA) software.

Action Items:

- 2-1 Complete transition of volunteer campaigns to ORCA software.
Who: Chief Technology Officer, Director of Public Outreach
Timeline: January 2005
- 2-2 Continue upgrading ORCA according to prioritized list of enhancements.
Who: Chief Technology Officer
Timeline: Ongoing

Strategy: Maintain recent technological advances.

Action Items:

- 2-3 Through resource management and budget submissions, acquire funding for technology maintenance and acquisitions that continue to advance reliable, secure and efficient service.
Who: Executive Director, Chief Technology Officer
Timeline: Ongoing
- 2-4 Re-design website for freshness, clarity, ease-of-use and functionality.
Who: Chief Technology Officer, Director of Public Outreach
Timeline: June 2005
- 2-5 Enhance service delivery through development of an on-line customer survey and automated email alerts regarding specific new filings.
Who: Chief Technology Officer, Director of Public Outreach
Timeline: December 2005

Strategy: Improve access to lobbying information.

Action Items:

- 2-6 Generate support within the legislature and the lobbying community for distribution of the lobbyist pictorial directory via the Legislature's intranet.
Who: Director of Public Outreach
Timeline: January 2005
- 2-7 Review occupational category selections for lobbyist employers to incorporate current national industry classification standards.
Who: Director of Administration
Timeline: November 2004

3. Enhance communication with agency customers.

Objective: Increase filer and media awareness of PDC requirements.

All strategies and action items below advance Statewide Result No. 11.
Activity: Provide Public Access to Campaign, Lobbying and Financial Information.

Strategy: Increase utilization of electronic communications.

Action Items:

- 3-1 For distribution of materials to lobbyists, lobbyist employers, F-1 filers, political committees, and candidates, rely primarily on electronic mail with Internet links and compact diskettes.
Who: Director of Public Outreach, Director of Administration
Timeline: Ongoing
- 3-2 For distribution of enforcement warning letters, transition to reliance on electronic mail with Internet links; explore use of electronic mail for enforcement hearing notices.
Who: Assistant Director, Director of Compliance, Senior Counsel
Timeline: Ongoing

Strategy: Attain 100% compliance with reporting deadlines.

Action Items:

- 3-3 Through education and training, all persons required to file disclosure reports become proficient with reporting requirements and systems.
Who: Director of Public Outreach
Timeline: Ongoing
- 3-4 Send electronic reminder notices to filers 5 to 7 days before report due dates.
Who: Director of Public Outreach, Director of Administration
Timeline: Ongoing

Strategy: Raise profile of public disclosure law and its requirements beyond South and Central Puget Sound regions.

Action Items:

- 3-5 Through press releases, guest editorials and public service announcements, increase awareness and usage of disclosed information.
Who: Director of Public Outreach
Timeline: Ongoing
- 3-6 Increase contacts with media in Bellingham, Yakima and Spokane to enhance their understanding of disclosure provisions and usage of website data.

4. Increase Commission and staff capacity to meet future challenges.

Objective: Increase agency's ability to satisfy public expectations.

All strategies and action items below advance Statewide Result No. 11.
Activities: Enforcement of Public Disclosure Laws and Provide Public Access to Campaign, Lobbying and Financial Information.

Strategy: Communicate resource needs and recommendations for statutory revisions to the Legislature.

Action Items:

- 4-1 Submit budget request that incorporates increased funding for information technology staff, maintenance and renovations to agency infrastructure.

Who: Commission, Executive Director, Chief Technology Officer, Director of Public Outreach

Timeline: August 2004

- 4-2 Encourage the Legislature to revise chapter 42.17 RCW to eliminate inconsistencies and ambiguities.

Who: Commission, Executive Director, Assistant Director, Director of Public Outreach, Senior Counsel

Timeline: December 2004

Strategy: Develop alternatives to current practices that further promote efficiencies and improved customer service.

Action Items:

- 4-3 Examine staff organization to optimize effective and efficient resource management.

Who: Executive Director, Assistant Director, Chief Technology Officer

Timeline: January 2005

- 4-4 Explore incentives for staff retention.

Who: Assistant Director, Director of Administration

Timeline: February 2005

- 4-5 Locate, equip and operate redundant facility to protect data and support business resumption in the event of a disaster.

Who: Chief Technology Officer

Timeline: June 2005

- 4-6 Implement computerized reference manual that incorporates statutes, rules, case law decisions, declaratory orders, interpretations, policies and advisory letters.

Who: Assistant Director, Director of Administration

Timeline: March 2005

Appraisal of External Environment

The workload of the Commission and the public's perception of how well the agency is performing are affected by a number of external factors.

1. Election cycles vary from year to year. For example, local elections are held in odd-numbered years, while state legislative races are held in even-numbered years, and races for the statewide executive offices are held every four years. Special elections for office may be held every year. Typically, there are more election campaigns in the odd-numbered years, approximately 3,000, while between 1,000 and 1,200 candidates seek office in even-numbered years. Furthermore, the number of statewide and local ballot measures before the voters varies greatly from year to year.

Although there may be more campaigns in the odd-numbered years, the contribution limits of Initiative 134 do not apply to candidates for local office, and thus the scope of the law that must be administered and enforced by the PDC during those election cycles is narrower than that applied to statewide executive and legislative candidates. However, in local election years, there are more first-time candidates who are frequently unfamiliar with the disclosure law's requirements.

2. The length of each legislative session. During the longer sessions in odd-numbered years, there are more lobbyist registrations and reports to process and monitor for compliance.

3. The number of complaints filed by members of the public, "citizen actions" filed with the Attorney General (but investigated and, if necessary, adjudicated under chapter 34.05 RCW by PDC), **and public records requests filed** in connection with enforcement matters and otherwise. These are all matters over which the Commission has no control, but which, for the most part, require prompt attention.

The number of complaints filed by the public has been significantly impacted by the passage of Initiative 134. In FY 1992 (before I-134), 33 complaints were filed by the public, compared to 130 in FY 2000, 116 in FY 2001, and 71 in FY 2002, and 57 in FY 2003. Not only has the sheer number of cases increased, but the investigations and enforcement proceedings that follow from these complaints are longer, more complex, and often result in appeals through the judicial system.

Complainants, respondents, and others who follow the Commission's enforcement cases have been inclined to serve the agency with public records requests that cover years or decades of documents numbering in the thousands. The inability to promptly

provide access to these documents can, as was the case in July of 1998, result in penalties and attorneys fees being assessed against the Commission.

The Commission has also seen an increase in the number of “citizen’s actions” being filed. Sixteen were filed between September 1996 and November 2003, four times the total number filed during the first twenty years of the law’s existence. These are especially taxing on agency resources because of the strict timelines involved. RCW 42.17.400 allows any person to file a “citizen’s action” in superior court to enforce the Public Disclosure Law if that person has given the Attorney General and county prosecutor 45 days notice and the officials have declined to act. Although the statute requires notice to be filed with the Attorney General and prosecutors, the PDC, as a practical matter, is brought into these cases. The Attorney General’s office relies on the PDC to provide advice and investigate the allegations, and the PDC is billed by the AG’s office for its work on these cases.

The filing of a citizen’s action, with its strict deadlines, taxes the limited resources of the PDC, often requiring two or more staff investigators, and jeopardizes the agency’s ability to set its own priorities. This pressure is intensified by the provision that taxpayer money be used to reimburse a complainant who prevails for costs and attorneys’ fees.

4. Court challenges to campaign finance laws. Notwithstanding the fact that Initiative 276 became law in 1973 and Initiative 134 was effective in 1992, PDC is devoting considerable public resources to defending long-standing interpretations of these citizen initiatives. One current legal challenge seeks to overturn a ten year old rule that clarifies when local units of membership organizations maintain separate contribution limits (rather than sharing one limit with their parent organization). Another maintains that the false political advertising statute is unconstitutional. These and other legal actions against PDC come on the heels of a July 2000 Washington State Supreme Court ruling against the agency that found it was unconstitutional to not permit political parties to pay for issue ads with exempt funds (i.e., soft money).

A trend has emerged wherein persons who perceive themselves as disadvantaged by provisions of the campaign practices and disclosure law are turning to the courts for relief. The Commission expects this trend to continue.

5. Relationships with public officials. The Commission must strike a balance between maintaining an open and beneficial working relationship with the Governor, the Legislature, the Attorney General and other public officers and agencies, while fully and fairly enforcing the law that regulates candidates for those offices, incumbents holding those positions, and the lobbying activity of state and local agencies.

Of primary sensitivity is the fact that the PDC is responsible for regulating candidates for, and members of, the State Legislature notwithstanding the fact that it is the Legislature that sets the Commission’s budget and has the responsibility to prescribe the Commission’s authority. The PDC, perhaps more than any other agency, risks alienating legislators through the exercise of its authority since Commission action may have a direct, personal impact on members of the Legislature.

The PDC also regulates local officeholders and others within the political system who have access to state officials, such as lobbyists, PAC's, political parties, and contributors.

PDC commissioners and staff must be aware and sensitive to the political environment in which they function, but not intimidated or swayed by it.

6. Relationships with the media. As representatives of the public, the media is the Commission's "biggest customer" in seeking access to campaign information collected and disseminated by the agency. Journalists are also intensely interested in PDC investigations, enforcement hearings, and policies, since they often involve high-profile officeholders and candidates.

Because of their coverage of candidates and officials, the press becomes intimately familiar with the work of the agency, and this scrutiny tends to extend to the operations of the Commission as a whole. It's the PDC that becomes newsworthy, not just the candidates or lobbyists it tracks.

PDC personnel must be ever mindful of the fact that the people and entities about whom the agency makes decisions are in the public eye and their reputation has a direct impact on their professional and political careers. Any mistake a staff member makes in advising or investigating persons subject to the law, or even handling their paperwork, may have significant and lasting consequences for that person's career, credibility, and future. In turn, these same mistakes may also have formidable consequences for the agency itself.

7. Relationships with filers. Since its inception, PDC has emphasized customer assistance and training as the primary means for fostering compliance with the law, believing that the vast majority of filers will comply if they know how.

In some respects, when filing meant putting pen to paper and filling in the blanks, it was easier for people not formally schooled in computing. Admittedly, for campaign treasurers, it meant manually adding up contributor aggregate totals and keeping paper records, but filing took no special skill or equipment, just time and commitment.

With the advent of electronic filing, a new dimension has been added. Now hundreds of filers not only need to know what the law requires of them, many of them also need help setting up their computer systems, properly entering data and generating reports. On the days immediately preceding and following filing day, to say nothing of filing day itself, PDC staff literally spend eight to ten hours on the telephone and responding to email messages from often frustrated, sometimes desperate, treasurers and accountants. Electronic filing, for all its benefits – and there are many – can add increased tension and stress to an already demanding disclosure requirement. Care must be taken in order that employees are not overtaxed, while, to the maximum extent possible, filers receive prompt and courteous assistance.

Trends in Customer Characteristics

The most significant trend is that an increasing number of filers and members of the public have access to ever-evolving technological resources and they rightfully expect PDC to utilize the latest technology to meet their needs. This trend requires the Commission to continuously re-examine the ways in which it can best reach and serve these customers, while also recognizing that other customers are less technologically sophisticated and need considerable one-on-one assistance and very intuitive computing products to be successful.

In the 1999-2001 Supplemental Budget, the PDC was appropriated an additional \$674,000 to implement E2SSB 5931, which passed in 1999, and SB 6775, which became law in June of 2000. This legislation mandated PDC to host a Website that provided easy public access to newly filed disclosure reports and data, to offer electronic filing alternatives to filers, and to implement mandatory electronic filing for many candidates and political committees.

Specifically, this funding allowed the agency to acquire a Chief Technology Officer, three other IT professionals, and an additional data entry position. Funding was also included for upgrading scanning software and equipment, revising the existing campaign electronic filing system, and developing new electronic filing systems for lobbyists and lobbyist employers.

These investments have permitted the Public Disclosure Commission to meet public and legislative demands for quick access to critical information about political spending in Washington State. The public is now able to “follow the money” and do so in a technologically advanced manner. These investments have also helped filers comply with the law, improved the agency’s overall efficiency through application of modern hardware and software, and given the agency the ability to better communicate with the people it serves.

However, this dependence on technology means there is a concomitant need for funding to maintain and upgrade the agency’s hardware and software products so that they are as reliable and secure as possible. The initial funding in 2000 for information technology equipment did not include dollars for these critical and unavoidable expenses. Resources are being sought in this budget submission for software maintenance and support and reinvestment in technology infrastructure without which the agency’s core mission will be jeopardized.

Strategy and Capacity Assessment

In June 2000, 46 persons filed their PDC reports electronically. Two years later, that number had risen to 370. Today, the agency is serving 1,405 electronic filers: 212 candidates, 221 political committees, 651 personal financial affairs filers, 191 lobbyists and 130 lobbyist employers. By the time the 2004 campaigns are in full swing, several hundred more candidates and political committees will be filing electronically.

This continual shift to e-filing, while necessary for prompt public access to data, means that additional agency resources are being devoted to questions concerning use of electronic filing software. Part of the long-term solution lies with more sophisticated on-line help screens, tutorials and the like, but filing programs will also have to be systematically upgraded to make them as error retardant and user friendly as possible. However, it is necessary to recognize that the landscape has changed and the demand for technological assistance from PDC staff will not abate. To better manage this demand, earlier this year the agency created a filer assistance specialist position from what had been an information technology applications specialist position. Of course, since one staff member cannot promptly respond to all callers, the five political finance specialists are expected to have a working knowledge of the filing systems used by campaigns, lobbyists, lobbyist employers and personal financial affairs filers. Management staff is currently assessing whether it is necessary to change one of the political finance specialist positions to that of a filer assistance specialist. Since political finance specialists conduct investigations in addition to helping filers, such a move could have unacceptable ramifications on the swiftness with which enforcement matters are resolved.

PDC's information technology staff is also stretched too thin. For the last twenty-two months, the IT division has been developing a new electronic filing program for campaigns. The new system will represent a vast improvement over the current antiquated software, but its complicated development and stringent testing requirements, combined with the everyday demands of a technology driven agency, means the IT division is understaffed and underfunded.

Another operational strategy relates to uniformity of enforcement case decisions. When similar violations occur, the Commission is committed to assuring that similar penalties result. To that end, the Commission has formally adopted five brief enforcement penalty schedules that set out a range of standard penalties for specific violations (primarily late reporting), taking into account a filer's compliance history. As part of its strategic plan, the Commission has also directed staff to identify additional types of violations for which penalty schedules may be appropriate and to create an historical reference guide for enforcement decisions rendered and penalties imposed by the full commission. The full commission hears cases involving more serious alleged violations, while brief enforcement – where a single commissioner sits as the hearing officer -- typically is relied upon for cases of late reporting.

The Commission also is committed to conducting more random audits of filers to assure compliance with the law, rather than relying almost exclusively on complaints filed by the public to uncover violations. The previous strategic plan focused on audits of

candidates and political parties. The new plan calls for in-depth review of reports filed by lobbyists, lobbyist employers and public agencies.

One of the agency's core assets, allowing it to perform its functions effectively, remains the five citizens who are appointed by the governor to lead the PDC. The commissioners are experienced, committed, impartial, and they bring diverse perspectives and skills to their oversight duties. Every year one member's term expires in December and a new member joins the board. This rotation energizes the Commission and the staff and enhances the agency's credibility.

Performance Assessment

Washington's public disclosure law and its implementation consistently rank at the top of national surveys comparing state disclosure requirements and public accessibility of information. For example,

- Washington ranked first for lobbyist disclosure in a May 2003 survey conducted by the Center for Public Integrity,
- Washington was rated as having the best campaign finance disclosure program in the country in September 2003 according to the California Voter Foundation, and
- PDC's website was nominated for a 2004 Webby Award in the government and law category by the International Academy of Digital Arts & Sciences.

This performance reflects the high value that the citizens of Washington and their elected representatives place on open government and access to information. Without their willingness to devote substantial resources to supporting the PDC's mission, it would not be possible for the agency to have realized this level of success.

Performance Measurements

Goal: Identify and implement strategies to make enforcement efforts more effective

Performance Measure	Target	Actual
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Percentage of candidates, political committees, lobbyists, and public officials who meet statutory filing deadlines.	90%	96%
Number and percentage of routine investigations completed within 90 days <i>*However, 55% of cases closed (37) were done so within 120 days, and 85% (57) were closed within 180 days. Actual performance varies from the target due to training period for staff reassignments, preparation for increased enforcement activity—17 full enforcement hearings, 17 brief enforcement hearings and 199 group enforcement hearings—and increased customer assistance for efilers.</i>	85/95%	21/32%*

Goal: Enhance public access and awareness of PDC reports and data through technology

Performance Measure	Target	Actual
Number of pages scanned for Internet access <i>*This number is through April 2004.</i>	65,000	45,454*
Number of times the Commission's Internet site is accessed	350,000	359,004
Average number of days from receipt of electronically filed campaign reports to posting on web site	<1	<1
Average number of days from receipt of paper filed campaign reports to posting on web site	<1	<1
Number of campaigns using electronic filing <i>*This number is through April 2004. We anticipate more campaigns will be efilng prior to the end of June.</i>	650	433*
Number of lobbyists using electronic filing Number of lobbyist employers using electronic filing <i>*More interest in efilng by lobbyists and lobbyist employers than anticipated.</i>	150 75	191* 130*
Number of officials using electronic filing for personal financial affairs reporting	750	651
Percentage of statewide executive candidates who file 1) paper reports and 2) electronically <i>*At least some paper filing candidates may be required to begin efilng this summer.</i>	5%/95%	26%/74%*
Performance Measure	Target	Actual
Percentage of legislative candidates who file 1) paper reports and 2) electronically <i>* At least some paper filing candidates may be required to begin efilng this summer.</i>	10%/90%	28%/72%*

Percentage of local candidates who file 1) paper reports and 2) electronically	50%/50%	56%/43%
Percentage of continuing political committees who file 1) paper reports and 2) electronically	50%/50%	42%/56%
Percentage of lobbyists who file 1) paper reports and 2) electronically	84%/16%	79%/21%
Percentage of lobbyist employers who file 1) paper reports and 2) electronically	92%/8%	89%/11%

Cost Reduction Strategies

The operating budget passed by the Legislature for the 2003-05 biennium mandated staff reductions and operating efficiencies totaling \$330,000. The agency implemented this reduction by eliminating 1.2 data entry positions, not filling a political finance technician position, deferring IT maintenance expenses, and reducing usage of legal services provided by the Office of the Attorney General.

In order to stretch its limited dollars and optimize the use of technology, the agency is relying primarily on electronic communications to replace annual mailings to personal financial affairs filers, lobbyists, and lobbyist employers. In addition, rather than printing and assembling 1,500 to 3,500 packets for distribution to candidates in July by county auditors, the PDC has produced a compact disk that contains all instructional materials a candidate might need as well as training videos on how to comply with the campaign finance and disclosure law. It is anticipated these efforts will, over the course of the biennium, result in approximately \$35,000 being made available for other types of necessary, but under-allocated expenses, like commissioner travel for meetings and equipment replacement costs.

Internal Resource Assessment

For the past twenty-five years, one of the PDC's strengths has been its ability to retain highly motivated, dedicated staff members who become expert in their field. This institutional knowledge has been one of the foundations of the agency's ability to operate effectively and efficiently. During 2005, both the Assistant Director and the Director of Administration are eligible for retirement after thirty years with PDC. Their departures will have a significant impact, at least in the short term, on agency operations, notwithstanding efforts to document as much as possible concerning their projects and methodologies. The Commission, as part of this strategic plan, has directed that staff explore incentives for retaining these and other long-term employees.

Also of utmost concern is the fact that the PDC's technology infrastructure is aging and nearing the end of its useful lifespan. Servers and other computers need replacing, software applications need to be upgraded with maintenance agreements, the imaging system relies on antiquated technology, databases require extensive modification to improve their usefulness, and programs used by lobbying and personal financial affairs filers require updating to more advanced technology in order to attract users. These needs will have to be addressed if the agency is to continue to function at the level the public has come to expect.